

From: munafo@ews3@inetgw
To: Microsoft ATR
Date: 1/27/02 12:56am
Subject: Microsoft Settlement

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Scituate, MA
Jan 26, 2002

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I believe that the Proposed Final Judgment fails to remedy the illegal practices that were found by the Court of Appeals for a number of reasons, including the following:

- Section III.A.2 of the Proposed Final Judgment allows Microsoft to retaliate against an OEM that ships computers containing a Competing operating system that is not a Microsoft operating system. For example, it allows Microsoft to retaliate against IBM and Apple because both of those companies ship Personal Computers that contain a competing operating system (Linux and MacOS respectively) and no copy of Windows.

- The definition of "Microsoft Middleware" (Proposed Final Judgment section VI definition J, and Findings of Fact paragraph 28) is too narrow. Microsoft could avoid the remedy by changing product version numbers ("Internet Explorer 7.0.0") or by distributing Middleware exclusively through a different distribution method (like the Internet-based Windows Update service)

- The definition of "Microsoft Middleware Product" (Proposed Final Judgment section VI definition K) is too narrow. Microsoft could avoid the remedy by replacing the products covered by definition K with new products. For example, they are already replacing Microsoft Java with Microsoft.NET and C#.

Therefore, I believe that the Proposed Final Judgment is not in the public interest, and must not be adopted without substantial revision.

Sincerely,

Robert Munafo, Scituate, Massachusetts, Software Engineer

CC: me@mrob.com@inetgw

